

Minutes of the
Board of Minerals and Environment Meeting
Matthew Environmental Education and Training Center
523 East Capitol Avenue
Pierre, South Dakota

April 17, 2008
10:00 a.m. CDT

CALL TO ORDER AND ROLL CALL: The meeting was called to order by Chairman Richard C. Sweetman. The roll was called and a quorum was present.

BOARD MEMBERS PRESENT: Richard Sweetman, Lee McCahren, Linda Hilde, Dennis Landguth, Mike DeMersseman, Pete Bullene, and Glenn Blumhardt.

BOARD MEMBERS ABSENT: Bob Duxbury and Chuck Monson.

OTHERS PRESENT: See attached attendance sheet.

APPROVAL OF MINUTES FROM MARCH 20, 2008, MEETING: Motion by McCahren, seconded by Bullene, to approve the minutes from the March 20, 2008, Board of Minerals and Environment meeting, as mailed. Motion carried.

OTTER TAIL AIR QUALITY PERMIT APPLICATIONS: Charles McGuigan reported that the board adopted the scheduling order at its March 20, 2008, meeting. The schedule allows for 30 days after the final proposal is issued by the department for other parties to petition for a contested case, petition to intervene, and to serve proper notice of appearance. Mr. McGuigan noted that since the March board meeting, a notice of entry was filed concerning the scheduling order and potential parties were also notified about the schedule the board established in March.

On April 15, 2008, the department issued the final proposal, which was served upon the parties who had commented on the draft proposal. Today, the department served the final proposal upon the parties who have already filed a contested case petition. So beginning today, April 17, 2008, there are 30 days for additional parties to intervene in this matter or to request a contested case hearing.

Mr. McGuigan stated that Roxanne Giedd, on behalf of DENR, filed a motion to designate certain information submitted to DENR confidential. He noted that this motion will need to be addressed prior to the hearing.

Mr. McCahren stated that on July 16-17, 2008, the board is scheduled to hold its meeting in Milbank. At this meeting the board will hear public comments on the permits. The hearing on the proposed permits is currently scheduled for August 18th through August 29th in Pierre.

MINING ISSUES: Tom Cline, DENR Minerals and Mining Program, was administered the oath by Mike DeMersseman and testified regarding transfer of liability and releases of liability (see attached matrix sheet).

Transfer of Liability

Motion by Hilde, seconded by Bullene, to transfer liability from Fisher Sand & Gravel Company, Dickinson, ND, Mine License No. 83-54, one site in Pennington County, to Anderson Sand & Gravel LLC, Sturgis, SD, Mine License No. 06-834. Motion carried.

Releases of Liability

Motion by DeMersseman, seconded by Blumhardt, to release liability for one site in Butte County and one site in McPherson County for Fisher Sand & Gravel Company, Dickinson, ND, Mine License No. 83-54; release liability for one site in Brookings County for Xochitl Enterprises LLP, Elkton, SD, Mine License No. 03-757; and release liability for one site in McPherson County for McPherson County Highway Department, Leola, SD, Mine License No. 83-41. Motion carried.

Update on Surety Increase for Russell Olson, Mine License No. 92-469

Mr. Cline reported that SDCL 45-6-71 requires an operator to submit to the board a surety in the amount of \$500 per acre of affected land. An investigation by the department determined that the actual unreclaimed area of 5.93 acres exceeds the unreclaimed area that Mr. Olson reported during the 2006 annual license review. The department advised Mr. Olson that in order to come into compliance he must provide additional surety in the amount of \$1,500.

In January 2008, Mr. Olson appeared before the board contesting a surety increase of \$1,500 for unreclaimed acres. Mr. Olson subsequently submitted Irrevocable Letter of Credit 2008-01 from Dakota Prairie Bank, Draper, SD, in the amount of \$3,000, and is requesting release of CD No. 1035 in the amount of \$1,500.

Mr. Cline noted that the Irrevocable Letter of Credit was reviewed by the Attorney General's Office.

Motion by McCahren, seconded by Hilde, to release CD No. 1035 in the amount of \$1,500 and to accept the Irrevocable Letter of Credit in the amount of \$3,000, for Russell Olson, Mine License No. 92-469. Motion carried.

Annual Update of Homestake Mining Company's Letter of Credit for Post-Closure Bond

Eric Holm was administered the oath by Mr. DeMersseman. He reported that in the May 18, 2006, order regarding the post-closure financial assurance for Mine Permit Nos. 332 and 456, the Irrevocable Letter of Credit that serves as financial assurance shall be automatically extended for periods of one year. At the time of each annual extension, the amount of the Irrevocable Letter

of Credit shall be adjusted to the bonding schedule set by the board in 2006. The bonding schedule is based on calculated present values for each year.

Mr. Holm presented the board with a Homestake post-closure bond handout. For 2008, the present value of the Irrevocable Letter of Credit is required to be \$40,184,630. This is an increase from the \$39,200,424, which was submitted last year. The amount for 2008 is actually higher than originally calculated in 2006. Homestake planned to remove the Deadwood Creek crossing in 2007. The board visited the crossing during the September 2007 tour of the large-scale gold mines. Since the crossing was going to be removed in 2007, costs for the removal project were not included in the 2008 post-closure bond amount. However, because bids for the project came in higher than anticipated, Homestake had to postpone the project until this year. As a result, Homestake was required to include the costs for the project in the 2008 post-closure bond amount.

Homestake has submitted an amendment to its current Irrevocable Letter of Credit, which increases the amount to \$40,184,630. The amendment to the Letter of Credit has been reviewed by the department.

The department recommended that the board accept the amendment to Irrevocable Letter of Credit 96586/80085 increasing the amount to \$40,184,630.

Motion by McCahren, seconded by Landguth, to accepted the amendment to Irrevocable Letter of Credit 96586/80085 increasing the amount to \$40,184,630. Motion carried.

Request for Approval of Contractor for the American Colloid Shear/Clarkson Socio-Economic Impact Study

Mr. Holm reported that American Colloid Inc. is requesting that the board approve the Bureau of Land Management (BLM) to be its socioeconomic contractor for the Eastern and Western Shear/Clarkson mining projects. Because portions of the affected area will be on BLM land, the agency will be conducting a socioeconomic evaluation of the area as part of the environmental assessment required under federal law.

Under the mining statutes, before the board can make a determination on the socioeconomic impacts of a proposed mining operation, it shall require an applicant for a large-scale mine to do a socioeconomic impact study and include it in its mine permit application. The law requires the applicant to get board approval for the contractor to conduct the study.

Mr. Holm noted that as part of its decision-making process on a mine permit application, the board can consider the socioeconomic impacts of a mining operation. The board can deny a mine permit application if it finds the adverse socioeconomic impacts of the proposed mining operation outweigh the benefits of the operation.

In accordance with SDCL 45-6B-33.1, the socio-economic study is to evaluate the potential impacts of a proposed mining operation including, but not limited to, the following areas:

- Population base;

- Employment and income;
- Tax base;
- Housing;
- Community services, including, but not limited to, schools, law enforcement and fire protection, solid waste, water and wastewater, and roads;
- Recreational opportunities or other beneficial uses of land within and adjacent to the permit area; and
- An evaluation of the cumulative impacts of the proposed operation considered together with existing operations in the surrounding region.

Jan Pharr of American Colloid requested that the board approve the Bureau of Land Management (BLM) to be its socioeconomic contractor for the Eastern and Western Shear/Clarkson mining projects. Ms. Pharr answered questions from the board.

Motion by McCahren seconded by DeMersseman to approve Bureau of Land Management (BLM) as socioeconomic contractor for American Colloid's Shear/Clarkson mining projects. Motion carried.

The BLM is a federal agency responsible for permitting and oversight of exploration and mining related activities on federal lands administered by the BLM and there is no contractor/client relationship between the BLM and American Colloid Company or any other company.

REQUEST PERMISSION TO ADVERTISE PROPOSED REVISIONS TO HAZARDOUS WASTE RULES: Carrie Jacobson, DENR Waste Management Program, requested permission to advertise for a public hearing to be held in September 2008 to consider proposed amendments to 74:28, Hazardous Waste Rules.

Motion by Hilde, seconded by Blumhardt, to authorize the department to advertise for a public hearing to consider amendments to 74:28, Hazardous Waste Rules. Motion carried.

OIL AND GAS CASE NOS. 6-2008, 7-2008, 8-2008, 9-2008, and 10-2008, OASIS PETROLEUM NORTH AMERICA, LLC: Chairman Sweetman requested a motion to appoint Lee McCahren as hearing chairman for these five cases.

Motion by Blumhardt, seconded by Landguth, to appoint Mr. McCahren as hearing chairman. Motion carried.

Mr. McCahren opened the hearing at 10:35 a.m. CDT.

Lawrence Bender, attorney from Bismarck, ND, represented Oasis Petroleum North America, LLC.

Roxanne Giedd, Deputy Attorney General, represented the Department of Environment and Natural Resources (DENR).

Ms. Giedd offered DENR Exhibit 1, a map showing existing horizontal spacing units and Oasis' proposed spacing units in blue boxes.

Mack McGillivray, DENR Oil and Gas Program, was administered the oath and testified regarding DENR Exhibit 1.

The exhibit was admitted into the record.

Mr. Bender requested that these five cases be combined into one hearing. Ms. Giedd and the board had no objections.

Mr. Bender noted that Oasis Petroleum North America, LLC filed the applications, but Continental Resources will be the operator.

Case No. 6-2008 is an application to amend any field orders or spacing rules to create and establish a 640-acre spacing unit comprised of all of Section 36, T23N, R6E, Corey Butte Field, Harding County, SD, and authorizing the drilling of a horizontal well to the "B" Zone of the Red River Formation within the spacing unit to be located not less than 500 feet from the spacing unit boundary.

Case No. 7-2008 is an application to amend any field orders or spacing rules to create and establish a 640-acre spacing unit comprised of all of Section 31, T23N, R7E, Harding County, SD, and authorizing the drilling of a horizontal well to the "B" Zone of the Red River Formation within the spacing unit to be located not less than 500 feet from the spacing unit boundary.

Case No. 8-2008 is an application to amend any field orders or spacing rules to create and establish a 640-acre spacing unit comprised of all of Section 1, T22N, R6E, Harding County, SD, and authorizing the drilling of a horizontal well to the "B" Zone of the Red River Formation within the spacing unit to be located not less than 500 feet from the spacing unit boundary.

Case No. 9-2008 is an application to amend any field orders or spacing rules to create and establish a 640-acre spacing unit comprised of all of Section 36, T23N, R7E, Harding County, SD, and authorizing the drilling of a horizontal well to the "B" Zone of the Red River Formation within the spacing unit to be located not less than 500 feet from the spacing unit boundary.

Case No. 10-2008 is an application to amend any field orders or spacing rules to create and establish a 640-spacing unit comprised of all of Section 16, T22N, R7E, Harding County, SD, and authorizing the drilling of a horizontal well to the "B" Zone of the Red River Formation within the spacing unit to be located not less than 500 feet from the spacing unit boundary.

Witnesses administered the oath and testifying on behalf of Oasis Petroleum North America, LLC and Continental Resources, Inc.:

Levi Olson, petroleum land man
Robert Johnson, consulting geologist

Exhibits offered and admitted into the record for Oasis Petroleum:

Exhibit L-1 – General locator map – showing location of all five cases
Exhibit L-2 – Land plat for Case No. 6-2008
Exhibit L-3 – Ownership summary for Case No. 6-2008
Exhibit L-4 – Land plat for Case No. 7-2008
Exhibit L-5 – Ownership summary for Case No. 7-2008
Exhibit L-6 – Land plat for Case No. 8-2008
Exhibit L-7 – Ownership summary for Case No. 8-2008
Exhibit L-8 – Land plat for Case No. 9-2008
Exhibit L-9 – Ownership summary for Case No. 9-2008
Exhibit L-10 – Land plat for Case No. 10-2008
Exhibit L-11 – Ownership summary for Case No. 10-2008
Exhibit G-1 – Proposed 640-acre spacing units for all five cases
Exhibit G-2 – Type log, Luff Nygaard 1-7
Exhibit E-1 – Continental Resources, Inc., 640-acre spacing unit horizontal layout
Exhibit E-2 – Well construction diagram
Exhibit E-3 – Proposed production curve
Exhibit E-4 – Expected economics

Fred Steece was administered the oath and testified on behalf of the Department of Environment and Natural Resources regarding Case Nos. 6-2008, 7-2008, 8-2008, 9-2008, and 10-2008.

Notice of the hearing for these cases was published twice before March 19, 2008, in the Black Hills Pioneer, the Pierre Capital Journal, the Rapid City Journal, and the Nation's Center News. Affidavits of Publication are on file in the Department of Environment and Natural Resources Rapid City office.

The department received no petitions to intervene in any of these cases.

Motion by Hilde, seconded by Blumhardt, to approve Case Nos. 6-2008, 7-2008, 8-2008, 9-2008, and 10-2008, Oasis Petroleum America, LLC. Motion carried.

Motion by Sweetman, seconded by DeMersseman, to adopt the Findings of Fact, Conclusions of Law and Orders for Case Nos. 6-2008, 7-2008, 8-2008, 9-2008, and 10-2008, Oasis Petroleum America, LLC, and to authorize Dennis Landguth to execute the orders. Motion carried.

Mr. McCahren declared the hearing closed.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDERS FOR CASE NOS. 1-2008 AND 3-2008: At its March 2008, meeting, the board approved Continental Resources Oil and Gas Case Nos. 1-2008 and 3-2008, which requested that all of the horizontal orders in Pete's Creek Field be amended to provide for 500-foot setbacks. At the time, the department did not have a list of all of the orders for Pete's Creek Field. Following the hearing, the department compiled the list of the orders being amended for the 500-foot setback for Pete's Creek field and Mr. Bender incorporated the list into the Findings of Fact, Conclusions of Law and Orders.

Mr. Bender presented the amended Findings of Fact, Conclusions of Law, and Orders for the two cases, and he requested board approval.

Motion by Bullene, seconded by Hilde, to adopt the amended Findings of Fact, Conclusions of Law, and Order for Case Nos. 1-2008 and 3-2008, Continental Resources, Inc., and to authorize Mr. Landguth to execute the Orders. Motion carried.

OTHER BUSINESS: The next board meeting is May 15, 2008, in Pierre.

The July 16-27, 2008, meeting will be held in Milbank.

Mack McGillivray reported that he will be attending the Williston Basin Petroleum Conference in Minot, North Dakota.

Mr. Steece and Mr. McGillivray provided a report on the oil reserves in the North Dakota Bakken Formation.

The meeting was digitally recorded and a copy of the recording may be obtained by contacting the Department of Environment and Natural Resources, 523 East Capitol Avenue, Pierre, SD 57501; telephone number 605-773-3886.

ADJOURNMENT: Chairman Sweetman declared the meeting adjourned.

Linda Hilde 5-15-08
Secretary Date

Bob Bullene 5/15/08
Witness Date

BOARD OF MINERALS AND ENVIRONMENT MEETING

Date 4-17-08

ADDRESS

REPRESENTING

Robert Post Johnson	P.O. Box 500p, Bismarck	Cont. Res.
Levi Olson	po Box 1938, Williston, ND	Cont. Res.
Lawrence Reel	P.O. Box 1855 Bismarck ND.	Orsis + CRT
GL (Mack) McGilley	2050 W. Main - St 2, RC	DENR
FRED STEECE	" "	" "
Eric Holm	Pierre	DENR
Camie Jacobson	Pierre	DENR
Chad Babcock	Pierre	DENR
Kyril Rombough	Pierre	DENR
Thomas Cline JR	Pierre	DENR - M + M - Con Agg
Mary Jo Jones	Pierre	SPK

South Dakota Board of Minerals & Environment

April 17, 2008

<u>License/Permit Holder</u>	<u>License/ Permit</u>	<u>Site No.</u>	<u>Surety Amt.</u>	<u>Surety No.</u>	<u>Surety Company/Bank</u>	<u>DENR Recommendation</u>
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Transfer of Liability:

Fisher Sand & Gravel Company Dickinson, ND	83-54		\$20,000	190-002-030	Liberty Mutual Insurance Co.	Transfer liability.
		54016	N1/2 Section 16; T2N-R7E, Pennington County			
Anderson Sand & Gravel LLC Sturgis, SD	06-834		\$20,000	5021711	Bond Safeguard Insurance Company	

Transfer to:

Releases of Liability:

Fisher Sand & Gravel Company Dickinson, ND	83-54		\$20,000	190-002-030	Liberty Mutual Insurance Co.	Release liability.
		54002	SW1/4 NE1/4 Section 25; T8N-R2E, Butte County			
		54069	N1/4 Section 7; T126N-R69W, McPherson County			
Xochitl Enterprises LLP Elkton, SD	03-757		\$2,000 \$2,000 \$500	124236 124304 8858	Bremer Bank, Marshall, MN Bremer Bank, Marshall, MN Citizens State Bank, Tyler, MN	Release liability.
		757004	NW1/4 Section 22; T111N-R49W, Brookings County			

South Dakota Board of Minerals & Environment

April 17, 2008

License/Permit Holder License/ Permit Site No. Surety Amt. Surety No. Surety Company/Bank DENR Recommendation

Release of Liability:

McPherson County Highway Department Leola, SD	83-41	EXEMPT	NA	NA	Release liability.
	41020	SE1/4 Section 24; T125N-R69W, McPherson County			

Annual Update of Homestake Mining Company's Letter of Credit for Post-Closure Bond:

Homestake Mining Company Lead, SD	332	\$39,200,424	ILOC 96586/80085	Scotia Bank The Bank of Nova Scotia New York, NY	Accept amendment to Irrevocable Letter of Credit 96586/80085 to increase the amount to \$40,184,630.
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Update: Russell Olson Appearance Before the January 17, 2008 BME:

Russell Olson Murdo, SD	92-469	\$1,500	1035	Dakota Prairie Bank, Draper
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Mr. Olson appeared before the board in January contesting a surety increase of \$1,500 for unreclaimed acres. Mr. Olson subsequently submitted an Irrevocable Letter of Credit, 2008-01, from Dakota Prairie Bank, Draper, in the amount of \$3,000. Mr. Olson is asking for a release of CD No. 1035 in the amount of \$1,500.